

REMARKS

The Office Action mailed August 6, 2007 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Applicant has amended the claims to attend to housekeeping matters and to more clearly describe the invention. Claim 1 was amended to replace the term "at least one of the monovalent and divalent metal cations, trivalent cations" by the term —selected from the group consisting of calcined hydrotalcite, uncalcined hydrotalcite, and mixtures thereof—Support for this amendment may be found in Applicant's Specification at page 18, lines 2 and bottom line, and in originally filed claim 1. Applicant has amended claims 1 and 8 to attend to informalities to correct punctuation. Support for new claim 15 which recites that the layered double hydroxide salt contains Mg^{2+} and Al^{3+} in a molar ratio $Mg^{2+} : Al^{3+}$ from 3.1:1 to 1:2 can be found in originally filed claims 1, 5 and 6. Claim 4 was canceled. Support for new claim 16 may be found in originally filed claim 8. It is believed that no new matter has been introduced by this amendment.

The objections to claims 1 and 8 for informalities of punctuation should be withdrawn in view of Applicant's amendment hereinabove to correct the punctuation.

Regarding Items 2 and 3, in the IDS submitted 5/31/2005, US 54101809, and US 6350049, are typographical errors and should have referred to US Patent Nos. 5401809, and 6353049, respectively.

Claim 1 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The rejection of claim 1 as amended under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention

should be withdrawn in view of Applicant's amendments which should now properly recite the unlabeled formulae as additional organic anions.

Claims 1-3, 5 and 8-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Michel et al. (US Pat. No. 6,207,335) (herein after referred to as "the '335 Patent"). The rejection of claim 1, as amended under 35 U.S.C. 102(b) as being anticipated by Michel et al. (US Pat. No. 6,207,335) should be withdrawn for the reason that the '335 Patent does not disclose all of the elements of Applicant's invention. As amended, claim 1 now recites that the at least one layered double hydroxide salt is selected from the group consisting of calcined hydrotalcites, uncalcined hydrotalcites, and mixtures thereof having metal cations comprising divalent metal cations and trivalent metal cations, and thus can not be said to be anticipated by the '335 Patent. It is fundamental that all elements of a claim must be found united in the same way to perform the identical function for a reference to establish anticipation. Anticipation is a technical defense which must meet standards: Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art reference, there is no anticipation. Unless all of the elements of a claimed invention can be found in a single reference, it cannot be said that such a claim is anticipated by that reference. Therefore, the rejection of claim 1, as amended under 35 U.S.C. 102(b) as being anticipated by the '335 Patent should be withdrawn for the reason that the '335 Patent does not disclose all of the elements of Applicant's invention. The rejection of claims 2-3 and 8-14 under 35 U.S.C. 102(b) as being anticipated by Michel et al. (US Pat. No. 6,207,335) should be withdrawn for the reasons given in support of claim 1 from which they depend.

The rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over US Patent 6207335 to Michel et al. as applied to claim 1 above, and further in view of US Patent No. 5445911 to Russell et al is now moot in view of Applicant's amendment.

Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,207,335 to Michel et al. as applied to claim 1 above, and further in

view of US Patent No. 5360859 to Ogawa et al. The rejection of claims 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,207,335 (the '335 Patent) to Michel et al. as applied to claim 1 as amended above, and further in view of US Patent No. 5360859 (the '859 Patent) to Ogawa et al. should be withdrawn for the reason that the '335 Patent is silent on Applicant's specific double layered hydroxide salt comprising a calcined hydrotalcite containing organic anions A, and the '859 Patent relates to the field of stabilizing resins and is silent on any method for controlling the charge of an electrophotographic toner. Clearly, no one skilled in the art armed with either the '335 Patent or the '859 Patent would have any teaching or suggestion to arrive at Applicant's invention without the use of improper hindsight. Applicant's amended claims 5 and 6 are directed to a process for controlling the charge of an electrophotographic toner and no one skilled in the art charged with solving the problem of Applicant would find any teaching or suggestion to arrive at Applicant's process. Therefore, the rejection of amended claims 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,207,335 to Michel et al. as applied to claim 1 as amended above, and further in view of US Patent No. 5360859 (the '859 Patent) to Ogawa et al. should be withdrawn for the reason that the '335 Patent is silent on Applicant's specific double layered Mg/Al hydroxide salts containing organic anions A, and the '859 Patent relates to the field of stabilizing resins which is not for the same purpose as Applicant's invention and is silent on any method for controlling the charge of an electrophotographic toner.

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Michel et al. (US Pat. No. 6,207,335) (herein after referred to as "the '335 Patent") as applied to claim 1 above, and further in view of US Patent PGPub 20030215731, Saiki et al. (hereinafter as the '731 Publication). The rejection of claim 9, under 35 U.S.C. §103(a) as being unpatentable over Michel et al. (US Pat. No. 6,207,335) as applied to claim 1 above, and further in view of US Patent PGPub 20030215731, Saiki et al. should be withdrawn for the reason that the '335 as discussed hereinabove fails to teach that the salt is in the form of a hydrotalcite, and no combination of the '335 Patent and the '731 Publication can be made because the '731 Publication is not prior art to the instant application. Attached to this response is

a certified copy of Applicant's priority document DE10235571.1, having a filing date of 2002-August 03, and a certified translation of the priority document.

Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,



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Attachments:

Certified Translation of Priority Document

Certified Copy of Priority Document